

Honorable James L. Robart

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON AT SEATTLE**

RICHARD DWYER, ) NO. 2:20-cv-01236-JLR-SKV  
Plaintiff, )  
v. )  
TRINITY FINANCIAL SERVICES, LLC, ) AMENDED COMPLAINT  
Defendant. )

COMES NOW Plaintiff RICHARD DWYER, by and through his attorney RICHARD L. POPE, JR., and complains and alleges as follows:

## Parties

1. Plaintiff RICHARD DWYER is a resident of King County, Washington.
  2. Defendant TRINITY FINANCIAL SERVICES, LLC is a Wyoming limited liability company registered to do business and doing business in Washington.

## **Jurisdiction and Venue**

3. This Court has proper jurisdiction and venue since it involves real property located in King County, Washington and wrongful actions committed in King County, Washington. This case was removed to federal court over Plaintiff's objections and remand was denied.

**Background Facts**

4. Plaintiff owns a home he resides in King County, Washington at the  
 5 street address of 25322 113th Ave SE, Kent, Washington 98030 and the legal description of:

6 LOT I, CITY OF KENT SHORT PLAT NO. SP 90-19 RECORDED UNDER  
 7 RECORDING NO. 9102140575, BEING A PORTION OF THE SOUTHEAST  
 8 QUARTER OF THE NORTHWEST QUARTER OF THE SOUTHEAST  
 9 QUARTER OF THE SOUTHEAST QUARTER OF SECTION 20, TOWNSHIP  
 10 22 NORTH, RANGE 5 EAST, W.M., IN KING COUNTY, WASHINGTON.  
 11 SITUATE IN THE COUNTY OF KING, STATE OF WASHINGTON. (Assessor  
 12 Tax Parcel No. 202205-9071)

13 5. On July 12, 2006, Plaintiff executed two deeds of trust on his home in favor of  
 14 Mortgage Electronic Registration Systems, Inc. (MERS) as beneficiary. In reality, MERS was  
 15 “nominee” under these deeds of a trust for Ownit Mortgage Solutions, Inc., who was intended to  
 16 be the true beneficial owner under these deeds of trust. There was a first position deed of trust in  
 17 the amount of \$209,600.00 recorded under King County Recording No. 20060717000986 and a  
 18 second position deed of trust in the amount of \$52,400.00 recorded under King County  
 19 Recording No. 20060717000987. Both of these documents were recorded on July 17, 2006.

20 6. Plaintiff paid no more than a few payments on the second position deed of trust,  
 21 reducing the principal balance to \$52,396.20. Plaintiff has not made any payments on the second  
 22 position deed of trust since some time prior to December 31, 2006.

23 7. Shortly after Plaintiff executed the second position deed of trust, Ownit Mortgage  
 24 Solutions, Inc. transferred beneficial interest in the same to Greystone Solutions, Inc. In turn,  
 25 Greystone Solutions, Inc., gave notice to Plaintiff that it now owned the second position deed of  
 26 trust. No recordings were filed in connection with this change of ownership with the King  
 27 County Recorder’s Office, with MERS remaining as legal beneficiary in the public records.

28 8. On February 28, 2008, Plaintiff filed a Chapter 13 bankruptcy in the United States  
 29 Bankruptcy Court for the Western District of Washington at Seattle, No. 08-11106-KAO.  
 30 Plaintiff’s main objective was to keep his home and to avoid loss through foreclosure. This  
 31 Chapter 13 bankruptcy was dismissed without plan confirmation on January 30, 2009.

1       9. Greystone Solutions, Inc. was listed as a secured creditor on Plaintiff's 2008  
 2 Chapter 13 bankruptcy, and was given notice of the bankruptcy filing at both a Buffalo, New  
 3 York street address and a Medford, Massachusetts post office box address. Greystone Solutions,  
 4 Inc. did not file a proof of claim or otherwise communicate regarding Plaintiff's bankruptcy.

5       10. Plaintiff did not hear anything further from Greystone Solutions, Inc. or anyone  
 6 else claiming to hold any interest in the second position deed of trust until April 8, 2020, when  
 7 Defendant mailed a letter and other materials claiming to own the second position deed of trust.

8       11. On April 27, 2017, Plaintiff filed a Chapter 13 bankruptcy in the United States  
 9 Bankruptcy Court for the Western District of Washington at Seattle, No. 17-11970-CMA.  
 10 Plaintiff's main objective was to keep his home and to avoid loss through foreclosure. There  
 11 was a pending foreclosure action on the first position deed of trust, which by that time was being  
 12 serviced by Select Portfolio Servicing.

13       12. By the time of the April 27, 2017 Chapter 13 bankruptcy filing, Plaintiff had not  
 14 heard anything from Greystone Solutions, Inc. or anyone else claiming an interest in the second  
 15 position deed of trust since prior to the February 28, 2008 Chapter 13 bankruptcy filing. Plaintiff  
 16 assumed that Greystone Solutions, Inc. or whoever claimed an interest had abandoned all hope  
 17 of ever collecting anything and that the holder of the second position deed of trust had decided  
 18 the obligation was barred by the statute of limitations and was no longer legally enforceable.  
 19 Plaintiff did not list Greystone Solutions, Inc. or anyone else on the 2017 bankruptcy filing, due  
 20 to the large passage of time and the lack of actual knowledge of the second deed of trust holder.

21       13. When Plaintiff filed the 2017 Chapter 13 bankruptcy, there was a total of about  
 22 \$366,567.00 owed on the first position deed of trust, with the fair market value of his home  
 23 being about \$303,000.00. Even without consideration of the second position deed of trust, the  
 24 debt on the first position deed of trust exceeded the fair market value of the property by over  
 25 \$60,000.00. In spite of the property being significantly upside down, even with consideration of  
 26 just the first position deed of trust, Plaintiff placed considerable value on being able to own and  
 27 keep his home, and was willing to rehabilitate and pay down the first deed of trust to do this.

1       14. By contrast, had the holder of the second position deed of trust been currently  
 2 asserting any secured interest at the time of the 2017 Chapter 13 bankruptcy, Plaintiff would not  
 3 have been willing to also pay off the second deed of trust in order to save and keep his home –  
 4 especially since debt would have exceeded value by considerably more than \$100,000.00.

5       15. In addition, had the holder of the second position deed of trust been currently  
 6 asserting any secured interest at the time of the 2017 Chapter 13 bankruptcy, Plaintiff would  
 7 have been able to completely eliminate any security interest of the second deed of trust in an  
 8 adversary proceeding that could have been filed in conjunction with the bankruptcy case. The  
 9 second position deed of trust was fully unsecured in economic terms, since the first position deed  
 10 of trust fully encumbered the fair market value of Plaintiff's home. Since there was no actual  
 11 economic position in the home securing the second position deed of trust, its legal secured  
 12 interest in Plaintiff's home could have been eliminated through an adversary proceeding.

13       16. Plaintiff made considerable economic payments through the 2017 Chapter 13  
 14 bankruptcy case, in reliance upon no claim being asserted by any purported holder of the second  
 15 position deed of trust. Plaintiff paid \$2,000.00 in an advance payment for his attorney fees,  
 16 \$310.00 payment for the filing fee, and \$53,596.00 in Chapter 13 plan payments through the  
 17 Chapter 13 Bankruptcy Trustee. Of this \$53,596.00 in Chapter 13 plan payments, \$1,500.00  
 18 went for the balance of Plaintiff's attorney fees, \$4,534.19 for Chapter 13 trustee administrative  
 19 costs, and \$49,061.81 in disbursements to creditors. Of these creditor disbursements, \$25,544.19  
 20 went towards current payments on the first position deed of trust and another \$5,110.49 towards  
 21 arrearages on the first position deed of trust. As a result of both the reduction in the amount  
 22 owed on the first position deed of trust and appreciation of the value of Plaintiff's home during  
 23 the 2017 Chapter 13 bankruptcy (which was dismissed on January 10, 2019), the interests of the  
 24 first position deed of trust holder in Plaintiff's home were considerably improved. Moreover, if  
 25 costs of sale were not considered, there may be some fair market value in the Plaintiff's home at  
 26 July 2020 values, that would be applicable to a second position deed of trust, even though a  
 27 foreclosure sale (or even regular sale) would net nothing for the second position whatsoever.

1       17. On August 1, 2016, MERS executed an assignment of the second position deed of  
 2 trust to Defendant. This assignment was recorded by Defendant with King County Records on  
 3 August 24, 2016 under recording number 20160824001578. Defendant did not provide any  
 4 notice to this assignment to Plaintiff until a letter and other materials were mailed April 8, 2020.

5       18. Defendant registered with the Washington Secretary of State as a foreign LLC on  
 6 October 9, 2014. Defendant obtained an Out-of-State Collection Agency license from the  
 7 Washington Department of Licensing on December 22, 2014.

8       19. Under the amendments enacted by Laws 2013, Chapter 148, Section 1, which  
 9 became effective on October 1, 2013 and are currently found at RCW 19.16.110(4)(d), “any  
 10 person or entity that is engaged in the business of purchasing delinquent or charged off claims  
 11 for collection purposes, whether it collects the claims itself or hires a third party for collection or  
 12 an attorney for litigation in order to collect such claims” must have a collection agency license.

13       20. Defendant has purchased at least 50 delinquent second position deeds of trust in  
 14 King County since 2013 (at least 10 of which were purchased while Defendant did not have the  
 15 required collection agency license) and probably around 150 to 200 such delinquent second  
 16 position deeds of trust in all of Washington during the same time period.

17       21. Defendant’s license as an Out-of-State Collection Agency pursuant to RCW  
 18 19.16.100(11) would allow Defendant to solely “collect[] debts from debtors located in this state  
 19 by means of interstate communications, including telephone, mail, or facsimile transmission,  
 20 from [Defendant’s] location in another state”. This would allow Defendant to send letters,  
 21 telephone calls and e-mails to Washington homeowners urging them to pay the delinquent loans  
 22 they had purchased, but would prohibit activities physically taking place in Washington, such as  
 23 filing collection lawsuits or foreclosure lawsuits or having trustee foreclosure sales conducted.

24       22. According to a search of court records and property records in King County, there  
 25 have been no lawsuits filed by Defendant or attempts to conduct any trustee foreclosure sale.  
 26 Based on this lack of action in King County and presumed lack of similar action elsewhere in  
 27 Washington, Defendant does not actually intend to file any lawsuit or conduct any foreclosures.

1           23. The letter Defendant mailed Plaintiff on April 8, 2020 stated that Defendant had a  
 2 valid security interest in Plaintiff's home that could be enforced by foreclosure against the  
 3 property. Defendant requested Plaintiff make contact to negotiate payment arrangements with  
 4 Defendant of this alleged security interest and provide Defendant personal financial information.

5           A. Defendant was originally acting as a loan servicer and collection agency  
 6 attempting to service and/or collect the loan when it was owned by Dreambuilder Investments  
 7 LLC (who never recorded their ownership or notified Plaintiff apparently). In the alternative,  
 8 Dreambuilder may have been servicer for an unknown owner prior to Defendant servicing. This  
 9 may have started around August 2015, although Plaintiff had no notification received about this.

10          B. Defendant did not a Consumer Loan Company License from Washington until  
 11 January 10, 2018 – legally required in order to service a residential mortgage loan (regardless of  
 12 whether a company services loans that they own or services loans that others own) under RCW  
 13 31.04.035(1). Violation of this law, in addition to being a crime under RCW 31.04.175(1), is  
 14 also a violation of the Washington Consumer Protection Act under RCW 31.04.208, which  
 15 provides for money damages and other civil relief. (The prior alleged servicer, Dreambuilder,  
 16 has never had a loan servicing license in Washington.)

17          C. In general, Plaintiff believes that a principal purpose of Defendant's business is the  
 18 collection of debts. Plaintiff also believes that Defendant is collecting for the benefit of persons  
 19 other than itself. While the August 2015 letter in dkt. 24-2 was never sent to Plaintiff, it shows  
 20 the true owner of the mortgage loan was Dreambuilder Investments LLC. Dreambuilder never  
 21 acquired a Washington collection agency license required to purchase delinquent debt, and  
 22 therefore transferred nominal ownership to Defendant, who does have a Washington license.  
 23 Plaintiff believes beneficial interest may belong to Dreambuilder or another "investor", instead  
 24 of Defendant having a 100% ownership of beneficial interest in the loans. Moreover, Defendant  
 25 has admitted to being a "debt collector" under the FDCPA in its correspondence to Plaintiff. (As  
 26 admitted in a later October 26, 2020 letter; as well as the August 8, 2020 letter at issue herein)  
 27 All these make Defendant to be a "debt collector" as defined by the FDCPA.

**The Collection Agency Act prohibits certain debt collection practices.**

24. "The business of debt collection affects the public interest, and debt collection agencies are subject to strict regulation to ensure they deal fairly and honestly with alleged debtors." Panag v. Farmers Ins. Co. of Wash., 166 Wn.2d 27, 54 (2009).

25. The Washington Collection Agency Act ("CAA"), chapter 19.16 RCW, requires collection agencies to obtain a license, follow certain internal procedures, and adhere to a code of conduct. Gray v. Suttell & Assocs., 181 Wn.2d 239, 334 (2014). RCW 19.16.110

26. The CAA requires that any written communication from a collection agency clearly and legibly provide the name of the licensee and the city, street, and number at which they are licensed to do business. RCW 19.16.250(8)(a).

27. The CAA requires that any written communication from a collection agency clearly and legibly provide the name of the original creditor to whom the debtor owed the claim. RCW 19.16.250(8)(b).

28. The CAA requires that any written communication from a collection agency clearly provide an itemization of the amount owed, including interest charges, collection costs, late payment charges, and/or attorney fees, whether these charges were added by the original creditor, a later holder of the debt, or the collection agency. RCW 19.16.250(8)(c).

29. The CAA prohibits a collection agency from threatening to take legal action against a debtor that it cannot legally take at the time the threat is made. RCW 19.16.250(16).

30. The CAA prohibits a collection agency from collecting or attempting to collect, in addition to the principal amount of a claim, a sum other than allowable interest, collection costs, or handling fees expressly authorized by statute or contract with the debtor. RCW 19.16.250(21).

31. If a collection agency violates any provision of RCW 19.16.250, it forfeits the right to collect any interest, service charge, attorneys' fees, collection costs, delinquency charge, or any other fees or charges otherwise legally chargeable to the debtor on such claim. RCW 19.16.450.

1           32. A violation of the CAA is a per se unfair or deceptive act or practice occurring  
 2 in trade or commerce under the Washington Consumer Protection Act (“CPA”), chapter 19.86  
 3 RCW. RCW 19.16.440.

4           **The Fair Debt Collection Practices Act prohibits certain debt collection practices.**

5           33. The Fair Debt Collection Practices Act (“FDCPA”), 15 U.S.C. § 1692a et seq.,  
 6 prohibits a debt collector collecting debt incurred primarily for household or personal use from  
 7 employing certain unfair debt collection practices.

8           34. The FDCPA prohibits a debt collector from making a false representation of the  
 9 character, amount, or legal status of any debt. 15 U.S.C. § 1692e(2)(A).

10          35. The FDCPA prohibits a debt collector from threatening to take any action that  
 11 cannot legally be taken or that is not intended to be taken. 15 U.S.C. § 1692e(5).

12          36. The FDCPA prohibits a debt collector from using any false representation or  
 13 deceptive means to collect or attempt to collect any debt or to obtain information concerning a  
 14 consumer. 15 U.S.C. § 1692e(10).

15          37. The FDCPA prohibits a debt collector from taking or threatening to take any  
 16 nonjudicial action to effect dispossession of property if there is no present right to possession of  
 17 the property claimed as collateral through an enforceable security interest, or if there is no  
 18 present intention to take possession of the property. 15 U.S.C. § 1692f(6).

19          38. The FDCPA prohibits a debt collector from using any false representation or  
 20 deceptive means to collect or attempt to collect any debt or to obtain information concerning a  
 21 consumer. 15 U.S.C. § 1692e(10).

22          39. The FDCPA requires a debt collector, either in the initial communication with a  
 23 consumer or within five days thereafter, to send the consumer a written notice that provides (1)  
 24 the amount of the debt, (2) the name of the creditor to whom the debt is owed, (3) a statement  
 25 that unless the consumer, within thirty days after receipt of the notice, disputes the validity of the  
 26 debt, or any portion thereof, the debt will be assumed to be valid by the debt collector, (4) a  
 27 statement that if the consumer notifies the debt collector in writing within the thirty-day period

that the debt, or any portion thereof, is disputed, the debt collector will obtain verification of the debt or a copy of a judgment against the consumer and a copy of such verification or judgment will be mailed to the consumer by the debt collector; and (5) a statement that, upon the consumer's written request within the thirty-day period, the debt collector will provide the consumer with the name and address of the original creditor, if different from the current creditor. 15 U.S.C. § 1692g(a).

40. The FDCPA prohibits a debt collector from the collection of any amount (including any interest, fee, charge, or expense incidental to the principal obligation) unless such amount is expressly authorized by the agreement creating the debt or permitted by law. 15 U.S.C. § 1692f(1).

**FIRST CLAIM FOR RELIEF**  
**WASHINGTON'S CONSUMER PROTECTION ACT**  
**(PER SE VIOLATION)**

41. Plaintiff re-alleges and incorporates by reference the allegations set forth in each of the preceding paragraphs of this Complaint.

42. Defendant is a licensed Washington collection agency and is a “collection agency” and “licensee” for purposes of the CAA.

43. The debts allegedly owed by Plaintiff is a “claim” as defined by RCW 19.16.100(2) because they are “obligation[s] for the payment of money or thing of value arising out of any agreement or contract, express or implied.”

44. Plaintiff is a “debtor” as defined by RCW 19.16.100(7) because Defendant alleges Plaintiff owes a “claim.”

45. Defendant violated RCW 19.16.110 by attempting or representing that it had the ability to foreclose on Plaintiff's second position deed of trust, when it did not have the required regular Collection Agency License and possessed only an Out-of-State Collection Agency license that does not legally allow in-state actions such as foreclosure sales and/or lawsuits.

1           46. Defendant violated RCW 19.16.250(8)(a) by placing only its mailing address on  
 2 the April 8, 2020 collection letter package and not including the street address at which it is  
 3 licensed to do business as a collection agency.

4           47. Defendant violated RCW 19.16.250(8)(b) by failing to provide the name of the  
 5 original creditor on the second position deed of trust in the April 8, 2020 collection letter.

6           48. Defendant violated RCW 19.16.250(8)(c) by failing to provide an itemization of  
 7 the amount owed, including interest charges, collection costs, late payment charges, and/or  
 8 attorney fees, whether these charges were added by the original creditor, a later holder of the  
 9 debt, or the collection agency in the April 8, 2020 collection letter.

10          49. Defendant violated RCW 19.16.250(16) by threatening to foreclosure action  
 11 against Plaintiff's property on the second position deed of trust, or lawsuit to enforce personal  
 12 liability, when such action could not legally be taken due to Defendant only possessing an Out-  
 13 of-State Collection Agency License which does not allow taking in-state actions such as lawsuits  
 14 and foreclosure sales, and also due to enforcement being barred by the statute of limitations, as  
 15 well as due to laches and waiver.

16          50. A violation of the CAA is a per se unfair or deceptive act or practice occurring  
 17 in trade or commerce under the Washington Consumer Protection Act ("CPA"), chapter 19.86  
 18 RCW. RCW 19.16.440.

19          51. Defendant's unfair and deceptive acts and practices repeatedly occurred in  
 20 Defendant's trade or business and were capable of deceiving a substantial portion of the public  
 21 and, indeed, have already injured dozens, if not hundreds, of Washington residents.

22          52. When a collection agency violates any provision of RCW 19.16.250, it forfeits  
 23 the right to collect any interest, service charge, attorneys' fees, collection costs, delinquency  
 24 charge, or any other fees or charges otherwise legally chargeable to the debtor on such claim.  
 25 RCW 19.16.450.

26          53. All of Defendant's debt collection activity, including acts it takes in litigation

1 or foreclosure against consumers, occurs in trade or commerce. RCW 19.16.440; Evergreen  
 2 Collectors v. Holt, 60 Wn. App. 151, 155–56 (1991).

3 D. Defendant did not a Consumer Loan Company License from Washington until  
 4 January 10, 2018 – legally required in order to service a residential mortgage loan (regardless of  
 5 whether a company services loans that they own or services loans that others own) under RCW  
 6 31.04.035(1). Violation of this law, in addition to being a crime under RCW 31.04.175(1), is  
 7 also a violation of the Washington Consumer Protection Act under RCW 31.04.208, which  
 8 provides for money damages and other civil relief. (The prior alleged servicer, Dreambuilder,  
 9 has never had a loan servicing license in Washington.)

10 54. Defendant's unfair acts or practices injured people other than Plaintiff and are  
 11 capable of injuring a substantial portion of the public.

12 55. The Washington Supreme Court has recognized the public policy significance of  
 13 regulating the debt collection industry and has specifically found that the business of debt  
 14 collection affects the public interest, and collection agencies are subject to strict regulation to  
 15 ensure they deal fairly and honestly with alleged debtors.

16 56. Defendant's general course of conduct as alleged herein is injurious to the public  
 17 interest and the acts complained of herein are ongoing and have a substantial likelihood of  
 18 being repeated.

19 57. As a direct and proximate result of Defendant's unfair acts and practices, Plaintiff  
 20 suffered injury in fact and lost money.

21 58. Plaintiff is therefore entitled to an order enjoining the conduct complained of  
 22 herein, including an injunction prohibiting Defendant from representing that it holds valid  
 23 security interests against Plaintiff's home, the homes of other Washington consumers, or that  
 24 Defendant is entitled to foreclose on those security interests.

25 59. Plaintiff is are also entitled to equitable relief as the Court deems appropriate,  
 26 including, but not limited to, disgorgement, of all or part of the ill-gotten profits Defendant  
 27 received from its unfair scheme.

60. Defendant's unfair and deceptive acts and practices are the direct and proximate cause of injuries to Plaintiffs and the Class. Plaintiffs and the Class are entitled to recover actual damages, treble damages, attorneys' fees, and costs pursuant to RCW 19.86.090.

61. Defendant's wrongdoing is continuing in nature and represents an ongoing threat to Plaintiff.

62. Other persons remain generally unaware that Defendant has filed deed of trust assignments against them without notice and that Defendant's collection practices are unlawful.

63. Plaintiff will suffer continuing, immediate, and irreparable injury absent the issuance of injunctive and equitable relief.

64 Plaintiff has no complete, speedy, and adequate remedy at law with respect to  
Defendant's continuing misconduct.

65. Preliminary and final injunctive relief is necessary to prevent further injury to Plaintiff.

**SECOND CLAIM FOR RELIEF**  
**WASHINGTON'S CONSUMER PROTECTION ACT**  
**RCW 19.86 et seq.**

66. Plaintiff re-alleges and incorporates by reference the allegations set forth in each of the preceding paragraphs of this Complaint.

67. Defendant's debt collection practices as described above are deceptive and unfair. Defendant's deceptive and unfair conduct includes but is not limited to the acts described below.

68. Defendant's failure to notify Plaintiff and other homeowners of the loan servicing transfer on the second position deed of trust at least 15 days before the transfer of servicing and in no event more than 30 days after transfer of servicing, as required by 12 U.S.C. § 2605(b), and instead making such notification on April 8, 2020, over 3-1/2 years after the transfer on August 1, 2016, was deceptive and unfair.

69. Defendant's failure to notify Plaintiff and other homeowners of the ownership transfer on the second position deed of trust within 30 days of ownership transfer, as required by

1 15 U.S.C. § 1641(g), and instead making such notification on April 8, 2020, over 3-1/2 years  
 2 after the transfer on August 1, 2016, was deceptive and unfair.

3 70. Defendant's failure to provide Plaintiff with a periodic billing statement prior to  
 4 each monthly payment due date, as required by 15 U.S.C. § 1638(f), was deceptive and unfair.

5 71. Defendant's false representation that its second position deed of trust constituted a  
 6 valid security interest against Plaintiff's residence which could be enforced by foreclosure or by  
 7 lawsuit including personal liability, when such action could not legally be taken due to  
 8 Defendant only possessing an Out-of-State Collection Agency License which does not allow  
 9 taking in-state actions such as lawsuits and foreclosure sales, and when enforcement being barred  
 10 by the statute of limitations, as well as due to laches and waiver, was deceptive and unfair.

11 72. Defendant's attempt to obtain confidential personal and financial information for  
 12 Plaintiff, including social security number, income information, asset information, liability  
 13 information, and other personal information, as well as a general expense to allow all third  
 14 parties to disclose information about Plaintiff, when such action could not legally be taken due to  
 15 Defendant only possessing an Out-of-State Collection Agency License which does not allow  
 16 taking in-state actions such as lawsuits and foreclosure sales, and also due to enforcement being  
 17 barred by the statute of limitations, as well as due to laches and waiver, was deceptive and unfair.

18 73. Defendant's other violations of the Collection Agency Act and other applicable  
 19 state and federal laws was deceptive and unfair.

20 74. All of Defendant's debt collection activity, including acts it takes in litigation and  
 21 foreclosure against consumers, occurs in trade or commerce. RCW 19.16.440; Evergreen  
Collectors v. Holt, 60 Wn. App. 151, 155–56 (1991).

22 75. Defendant's unfair acts or practices injured people other than the named Plaintiffs  
 23 and are capable of injuring a substantial portion of the public.

24 76. The Washington Supreme Court has recognized the public policy significance of  
 25 regulating the debt collection industry and has specifically found that the business of debt  
 26 collection affects the public interest, and collection agencies are subject to strict regulation to  
 27

ensure they deal fairly and honestly with alleged debtors.

77. Defendant's general course of conduct as alleged herein is injurious to the public interest and the acts complained of herein are ongoing and have a substantial likelihood of being repeated.

78. As a direct and proximate result of Defendant's unfair acts and practices, Plaintiff suffered injury in fact and lost money.

79. Plaintiff is therefore entitled to an order enjoining the conduct complained of herein.

80. Plaintiff is also entitled to equitable relief as the Court deems appropriate, including, but not limited to, disgorgement, of all or part of the ill-gotten profits Defendant received from its unfair scheme.

81. Defendant's unfair and deceptive acts and practices are the direct and proximate cause of injuries to Plaintiff. Plaintiff is entitled to recover actual damages, treble damages, attorneys' fees, and costs pursuant to RCW 19.86.090.

82. Defendant's wrongdoing is continuing in nature and represents an ongoing threat to Plaintiff.

83. Other persons remain generally unaware that Defendant has filed deed of trust assignments against them without notice and that Defendant's collection practices are unlawful.

84. Plaintiff will suffer continuing, immediate, and irreparable injury absent the issuance of injunctive and equitable relief.

85. Plaintiff has no complete, speedy, and adequate remedy at law with respect to Defendant's continuing misconduct. Preliminary and final injunctive relief is necessary to prevent further injury to Plaintiff.

**THIRD CLAIM FOR RELIEF**  
**VIOLATIONS OF THE FAIR DEBT COLLECTION PRACTICES ACT**  
**15 U.S.C. § 1692 et seq.**

86. Plaintiff re-alleges and incorporates by reference all of the paragraphs of this Complaint as though fully stated herein.

1           E.     The mortgage loan at issue herein is a consumer debt, as defined in 15 U.S.C. §  
 2 1692b(3),(5) as Plaintiff is a natural person and the mortgage loan on his residence arose out of a  
 3 transaction in which the money, property, insurance or services which are the subject of the  
 4 transaction are primarily for personal, family, or household purposes.

5           F.     The letter Defendant mailed Plaintiff on April 8, 2020 was an attempt to collect a  
 6 debt, as the letter itself admitted. The letter stated that Defendant had a valid security interest in  
 7 Plaintiff's home that could be enforced by foreclosure against the property, and also raised the  
 8 question that Defendant could enforce the alleged debt against Plaintiff personally. Defendant  
 9 requested Plaintiff make contact to negotiate payment arrangements with Defendant of this  
 10 alleged security interest and provide Defendant personal financial information to assess the  
 11 ability of Plaintiff to make payments on the alleged debt. A reasonable person would have  
 12 concluded that Defendant was attempting to collect the alleged debt and Plaintiff believed that.

13          G.     Plaintiff contends that Defendant is covered as a "debt collector" under 15 USC  
 14 1692a(6) by several alternative bases, each of which is independently valid under Henson v.  
 15 Santander Consumer USA Inc., 137 S. Ct. 1718 (2017) and the case law interpreting Henson:  
 16 (1) the true beneficial owner of the mortgage loan is Dreambuilder or another investor client of  
 17 Defendant, (2) even if Defendant is now the true owner, Defendant only bought the debt after it  
 18 started collecting it, (3) even if Defendant is the true owner, Defendant regularly collects debts  
 19 for others, (4) the principal purpose of Defendant's business is the collection of debts, and/or (5)  
 20 Defendant has expressly admitted that it is a "debt collector".

21          87.    Defendant's violations of the FDCPA include, but are not limited to, the  
 22 following.

23          88.    Defendant violated 15 U.S.C. § 1692e(2)(A) by making false representation of the  
 24 character, amount, or legal status of any debt by falsely representing that its second position deed  
 25 of trust constituted a valid security interest against Plaintiff's residence which could be enforced  
 26 by foreclosure or by lawsuit including personal liability, when such action could not legally be  
 27 taken due to Defendant only possessing an Out-of-State Collection Agency License which does

1 not allow taking in-state actions such as lawsuits and foreclosure sales, and when enforcement  
 2 being barred by the statute of limitations, as well as due to laches and waiver.

3 89. Defendant violated 15 U.S.C. § 1692e(10) by using any false representation or  
 4 deceptive means to collect or attempt to collect any debt by falsely representing that its second  
 5 position deed of trust constituted a valid security interest against Plaintiff's residence which  
 6 could be enforced by foreclosure or by lawsuit including personal liability, when such action  
 7 could not legally be taken due to Defendant only possessing an Out-of-State Collection Agency  
 8 License which does not allow taking in-state actions such as lawsuits and foreclosure sales, and  
 9 when enforcement being barred by the statute of limitations, as well as due to laches and waiver.

10 90. Defendant further violated 15 U.S.C. § 1692e(10) by using these additional  
 11 deceptive means to collect or attempt to collect the alleged debt: (1) failure to notify Plaintiff  
 12 and other homeowners of the loan servicing transfer on the second position deed of trust at least  
 13 15 days before the transfer of servicing and in no event more than 30 days after transfer of  
 14 servicing, as required by 12 U.S.C. § 2605(b), or at least 30 days prior to the next payment due  
 15 date as required by RCW 19.148.030(2), and instead making such notification on April 8, 2020,  
 16 over 3-1/2 years after the transfer on August 1, 2016, (2) failure to notify Plaintiff and other  
 17 homeowners of the ownership transfer on the second position deed of trust within 30 days of  
 18 ownership transfer, as required by 15 U.S.C. § 1641(g), and instead making such notification on  
 19 April 8, 2020, over 3-1/2 years after the transfer on August 1, 2016, and (3) failure to provide  
 20 Plaintiff with a periodic billing statement prior to each monthly payment due date, as required by  
 21 15 U.S.C. § 1638(f).

22 91. Defendant violated 15 U.S.C. § 1692e(5) by threatening to take any action that  
 23 cannot legally be taken or that is not intended to be taken by threatening to enforce its second  
 24 position deed of trust constituted a valid security interest against Plaintiff's residence through  
 25 foreclosure or by lawsuit including personal liability, when such action could not legally be  
 26 taken due to Defendant only possessing an Out-of-State Collection Agency License which does  
 27 not allow taking in-state actions such as lawsuits and foreclosure sales, when enforcement being

1 barred by the statute of limitations, as well as due to laches and waiver, and when Defendant has  
 2 neither foreclosed nor sued on any of its other assigned deeds of trust in Washington and had no  
 3 intention of doing so either in Plaintiff's case.

4 92. Defendant violated 15 U.S.C. § 1692e(10) by using any false representation or  
 5 deceptive means to collect or attempt to both collect the alleged debt from Plaintiff and to obtain  
 6 information concerning Plaintiff (including social security number, income information, asset  
 7 information, liability information, and other personal information, as well as a general expense to  
 8 allow all third parties to disclose information about Plaintiff) by falsely representing that its  
 9 second position deed of trust constituted a valid security interest against Plaintiff's residence  
 10 which could be enforced by foreclosure or by lawsuit including personal liability, when such  
 11 action could not legally be taken due to Defendant only possessing an Out-of-State Collection  
 12 Agency License which does not allow taking in-state actions such as lawsuits and foreclosure  
 13 sales, and when enforcement being barred by the statute of limitations, as well as due to laches  
 14 and waiver.

15 93. Defendant violated 15 U.S.C. § 1692f(6) by taking or threatening to take any  
 16 nonjudicial action to effect dispossession of property if there is no present right to possession of  
 17 the property claimed as collateral through an enforceable security interest, or if there is no  
 18 present intention to take possession of the property by threatening to enforce its second position  
 19 deed of trust constituted a valid security interest against Plaintiff's residence through foreclosure  
 20 or by lawsuit including personal liability, when such action could not legally be taken due to  
 21 Defendant only possessing an Out-of-State Collection Agency License which does not allow  
 22 taking in-state actions such as lawsuits and foreclosure sales, when enforcement being barred by  
 23 the statute of limitations, as well as due to laches and waiver, and when Defendant has neither  
 24 foreclosed nor sued on any of its other assigned deeds of trust in Washington and had no  
 25 intention of doing so either in Plaintiff's case.

26 94. Defendant violated 15 U.S.C. § 1692g(a) by failing to include, either in its initial  
 27 communication to Plaintiff on April 8, 2020, or within five days thereafter, any written notice

that provided any of the following items: (1) a statement that unless the consumer, within thirty days after receipt of the notice, disputes the validity of the debt, or any portion thereof, the debt will be assumed to be valid by the debt collector, (2) a statement that if the consumer notifies the debt collector in writing within the thirty-day period that the debt, or any portion thereof, is disputed, the debt collector will obtain verification of the debt or a copy of a judgment against the consumer and a copy of such verification or judgment will be mailed to the consumer by the debt collector; and (3) a statement that, upon the consumer's written request within the thirty-day period, the debt collector will provide the consumer with the name and address of the original creditor, if different from the current creditor.

95. All of the above described methods of debt collection are false, deceptive, or misleading, in violation of 15 U.S.C. § 1692e and/or are unfair or unconscionable, in violation of 15 U.S.C. § 1692f.

96. As a result of each of Defendants' violations of the FDCPA, Plaintiff is entitled to statutory damages in an amount up to \$1,000.00 against each Defendant debt collector. Plaintiff is also entitled to actual damages under 15 U.S.C. § 1692k(a)(1) and to reasonable attorney's fees and costs under 15 U.S.C. § 1692k(a)(3).

**FOURTH CLAIM FOR RELIEF  
QUIET TITLE AND DECLARATORY RELIEF BASED UPON STATUTE OF  
LIMITATIONS**

97. Under RCW 4.16.040(1), the statute of limitations on a written contract or instrument is six years.

98. It has been far longer than six years since Plaintiff made the last payment on the second position deed of trust (believed to have been in August or September 2006, within a couple months of the loan being taken out) and enforcement is barred under RCW 4.16.040(1). The second mortgage deed of trust loan is an installment note contract dated July 11, 2006, which calls for 360 installments of principal and interest starting on September 1, 2006 and ending on August 1, 2006. (dkt. 24-1 at 2) Plaintiff, at most, paid the September 1, 2006 installment. All installments due before September 7, 2015 are now time-barred, at minimum.

1           99. A deed of trust with monthly loan payments is a written installment contract.  
 2 Written contracts are subject to a six-year limitations period in Washington. See RCW  
 3 4.16.040(1). For installment contracts, each installment triggers the limitations period for that  
 4 missed payment: "[W]hen recovery is sought on an obligation payable by installments[,] the  
 5 statute of limitations runs against each installment from the time it becomes due; that is, from the  
 6 time when an action might be brought to recover it." Herzog v. Herzog, 23 Wn.2d 382, 388, 161  
 7 P.2d 142, 144-45 (1945); *see also* 25 David K. Dewolf, Keller W. Allen & Darlene Barrier  
 8 Caruso, Washington Practice: Contract Law and Practice § 16:20, at 196 (2012-13 Supp.)  
 9 ("Where a contract calls for payment of an obligation by installments, the statute of limitations  
 10 begins to run for each installment at the time such payment is due."). *see also* Jarvis v. Fed. Nat'l  
 11 Mortg. Ass'n, Case No. C16-5194-RBL (W.D. Wa. 04/24/2017)

12         100. Defendant and its predecessors in interest have been aware since July 2016 of their  
 13 rights under the second position deed of trust, aware of Plaintiff's non-payment of the same  
 14 starting in about August or September of 2006, have delayed unreasonably in bringing any action  
 15 to enforce the second position deed of trust and associated promissory note (including failure to  
 16 take any foreclosure action and/or litigation, failure to file a proof of claim in the 2008 Chapter  
 17 13 bankruptcy, failure to notify Plaintiff of change of ownership and change of servicing in  
 18 connection with the August 2016 ownership and servicing transfer and any prior transfers of  
 19 ownership and servicing, and failure to provide Plaintiff with any periodic billing statements  
 20 since at least 2008 to the present time, and Plaintiff would be damaged if Defendant is allowed to  
 21 assert a valid security interest and/or personal obligation.

22         101. Plaintiff is entitled to declaratory judgment that all payments due before  
 23 September 7, 2015 (or six years prior to entry of declaratory judgment, whichever is later) are  
 24 barred by the statute of limitations and determining the amount, if any, still owed on the loan.

25         102. Defendants' violations of RCW 19.16.250, as set forth above, forfeited the right to  
 26 collect any interest, service charge, attorneys' fees, collection costs, delinquency charge, or any  
 27 other fees or charges otherwise legally chargeable to the debtor on such claim under RCW

19.16.450. Moreover, Defendant's failure to send periodic billing statements as required by 15  
 U.S.C. § 1638(f) permits an inference that Defendant and its predecessors in interest had the loan  
 in a charge off status where no interest or other charges were accruing under 12 CFR §  
 1026.41(e)(6). In such event, application of the statute of limitations to bar all monthly  
 payments from 2006 start of the loan until September 7, 2015 (or later), with the elimination of  
 all liability for interest (and other charges) under RCW 19.16.450 or "charge-off" principles,  
 would mean that the amount of statutorily barred payments, now principal only with no interest  
 owed, would exceed the loan principal balance, and therefore mean nothing is owed any more.

103. Plaintiff is entitled to judgment quieting title in the second position deed of trust  
 and barring enforcement of promissory note under statute of limitations if nothing is owed.

104. Furthermore, since Defendant is an Out Of State Collection Agency, limited to  
 interstate activities such as letters, telephone calls, and e-mails, and prohibited from in-state  
 collection activities such as lawsuits and foreclosure sales, this is an additional independent basis  
 for judgment to quiet title on the second position and bar enforcement of the promissory note.  
 Since Defendant cannot legally bring a foreclosure lawsuit or non-judicial trustee foreclosure  
 sale, since all in-state collection activities are illegal, the deed of trust against the property is not  
 legally enforceable and title to the property should be quieted to extinguish the deed of trust.

**FIFTH CLAIM FOR RELIEF  
 VIOLATION OF 12 U.S.C. § 2605(b)**

105. Under 12 U.S.C. § 2605(b), Defendant was generally required to notify Plaintiff of  
 the loan servicing transfer on the second position deed of trust at least 15 days before the transfer  
 of servicing and in no event could this be made more than 30 days after transfer of servicing.

106. Servicing of the second position deed of trust was transferred to Defendant on  
 August 1, 2016 and Defendant did not notify Plaintiff of this until April 8, 2020.

107. Defendant was not able to reasonably discover that servicing of the second  
 position deed of trust was transferred to Defendant until April 8, 2020, which was the first date  
 Defendant sent any sort of notification to Plaintiff concerning this deed of trust.

108. Under 12 U.S.C. § 2605(f)(1), Plaintiff is entitled to recover actual damages from Defendant for this violation, plus additional damages of \$2,000.00 as the Court may allow.

109. Under 12 U.S.C. § 2605(f)(3), Plaintiff is entitled to reasonable attorney fees and costs for having to bring this lawsuit.

## **SIXTH CLAIM FOR RELIEF BREACH OF CONTRACT**

110. Statutes which affect the subject matter of a contract and which exist at the time of a contract's execution are incorporated therein and become a part of the contract. Rones v. Safeco Ins. Co. of Am., 119 Wn.2d 650, 656, 835 P.2d 1036 (1992); Wagner v. Wagner, 95 Wn.2d 94, 621 P.2d 1279 (1980); In re Marriage of Rufener, 52 Wn. App. 788, 791, 764 P.2d 655 (1988), review denied, 112 Wn.2d 1008 (1989)

111. The federal statutes cited below were therefore incorporated into the loan contract:

(a) 12 U.S.C. § 2605(b), Defendant was generally required to notify Plaintiff of the loan servicing transfer on the second position deed of trust at least 15 days before the transfer of servicing and in no event could this be made more than 30 days after transfer of servicing.

(b) Under 15 U.S.C. § 1641(g), Defendant was required to notify Plaintiff of the ownership transfer on the second position deed of trust not later than 30 days after the transfer of ownership.

(c) Under 15 U.S.C. § 1638(f), Defendant was required to send Plaintiff a periodic billing statement each month, setting forth numerous items, including (A) The amount of the principal obligation under the mortgage, (B) The current interest rate in effect for the loan, (C) The date on which the interest rate may next reset or adjust, (D) The amount of any prepayment fee to be charged, if any, (E) A description of any late payment fees, (F) A telephone number and electronic mail address that may be used by the obligor to obtain information regarding the mortgage, (G) The names, addresses, telephone numbers, and Internet addresses of counseling agencies or programs reasonably available to the consumer that have been certified or approved and made publicly available by the Secretary of Housing and Urban Development or a

1 State housing finance authority (as defined in section 1441a–1 of title 12), and (H) Such other  
2 information as the may be prescribed in regulations.

3           112. Defendant's violations of 12 U.S.C. § 2605(b) and 15 U.S.C. § 1638(f) are  
4 described elsewhere. As for 15 U.S.C. § 1641(g), Defendant was required to notify Plaintiff of  
5 the ownership transfer on the second position deed of trust not later than 30 days after the  
6 transfer of ownership. Ownership of the second position deed of trust was transferred to  
7 Defendant on August 1, 2016 and Defendant did not notify Plaintiff of this until April 8, 2020.

8           113. Defendant's breaches of its duties under 12 U.S.C. § 2605(b), 15 U.S.C. § 1638(f)  
9 and 15 U.S.C. § 1641(g) were also breaches of its contractual obligations to Plaintiff, for which  
10 Plaintiff can recover for at least six years prior to the institution of the present lawsuit. Plaintiff  
11 was harmed by these breaches of contract and is entitled to recover appropriate damages.

**SEVENTH CLAIM FOR RELIEF  
VIOLATION OF RCW 31.04.290**

14           114. Under RCW 31.04.290(1)(a), Defendant was required to comply with  
15       the following requirements when servicing Plaintiff's home mortgage loan: "(a) Any fee that is  
16       assessed by a servicer must be assessed within forty-five days of the date on which the fee was  
17       incurred and must be explained clearly and conspicuously in a statement mailed to the borrower  
18       at the borrower's last known address no more than thirty days after assessing the fee".

19           115. Defendant (and its predecessors in interest) has evidently assessed numerous fees  
20 against Plaintiff on the mortgage loan, including interest charges and late fees. There is no  
21 evidence that Defendant has ever actually assessed these fees, including interest charges and late  
22 fees, within 45 days of the date when they were incurred or notified Plaintiff within 30 days of  
23 the date when they were assessed.

**24** 116. Plaintiff has been damaged by these violations and is entitled to recover therefore.

25           117. Defendant should also implicitly forfeit, or be denied due to laches, waiver and  
26 estoppel, any right to interest charges, late fees, or other fees which were not timely assessed or  
27 not timely billing under the 30 days and/or 45 days requirements of RCW 31.04.290(1)(a). The

1 same principles of forfeiture, or denial due to laches, waiver and estoppel, should be applied to  
 2 any right to interest charges, late fees, or other fees which were not timely assessed or not timely  
 3 billing under the 30 days and/or 45 days requirements of RCW 31.04.290(1)(a) when the loan  
 4 was owned and/or serviced by Defendant's predecessors in interest, who also did not comply.

5 118. Defendant's violations of RCW 31.04.290(1)(a) were also a violation of the  
 6 Washington Consumer Protection Act under RCW 31.04.208 and should be included as an  
 7 additional bases under Plaintiff's First and Second CPA related causes of action.

8 **EIGHTH CLAIM FOR RELIEF**  
 9 **VIOLATION OF 15 U.S.C. § 1638(f)**

10 119. Under 15 U.S.C. § 1638(f), Defendant was required to send Plaintiff a periodic  
 11 billing statement each month, setting forth numerous items, including (A) The amount of the  
 12 principal obligation under the mortgage, (B) The current interest rate in effect for the loan,  
 13 (C) The date on which the interest rate may next reset or adjust, (D) The amount of any  
 14 prepayment fee to be charged, if any, (E) A description of any late payment fees, (F) A telephone  
 15 number and electronic mail address that may be used by the obligor to obtain information  
 16 regarding the mortgage, (G) The names, addresses, telephone numbers, and Internet addresses of  
 17 counseling agencies or programs reasonably available to the consumer that have been certified or  
 18 approved and made publicly available by the Secretary of Housing and Urban Development or a  
 19 State housing finance authority (as defined in section 1441a–1 of title 12), and (H) Such other  
 20 information as the may be prescribed in regulations.

21 120. Defendant has failed to send Plaintiff even a single periodic billing statement since  
 22 acquiring the second position deed of trust on August 1, 2016, much less one legally compliant.

23 121. Plaintiff was not able to reasonably discover that ownership of the second position  
 24 deed of trust was transferred to Defendant until April 8, 2020, which was the first date Defendant  
 25 sent any sort of notification to Plaintiff concerning this deed of trust.

26 122. Under 15 U.S.C. § 1640(a), Plaintiff is entitled to recover actual damages from  
 27 Defendant for each violation, although this Court has barred additional statutory damages.

1           123. The damages described elsewhere in the Complaint are also damages incurred due  
 2 to Defendant's violations of 15 U.S.C. § 1638(f).

3           124. In addition, or to better clarify, Plaintiff has suffered, among other things, the  
 4 following damages as a result of Defendant's violations of 15 U.S.C. § 1638(f):

5           (a) Plaintiff has incurred additional attorney fees and other expenses as a result of  
 6 Defendant refusing to provide periodic statements – indeed no statements at all – of the amount  
 7 allegedly due on the loan, which still has not been disclosed despite 13 months of litigation.

8           (b) Plaintiff has been unable to sell or refinance his home, incurring considerable  
 9 amounts of additional interest, late fees and other charges on his first mortgage loan, as well as  
 10 unknown (if any) amounts of additional interest, late fees and other charges on this second  
 11 mortgage loan (which Plaintiff otherwise argues is barred for various reasons), as well as more  
 12 damage to Plaintiff's credit rating and reputation as a result of being unable to deal with these.

13           (c) Plaintiff in fact believed that nothing was owed on the second mortgage loan, as a  
 14 result of Defendant's failure to ever send Plaintiff any periodic or other statements. Plaintiff  
 15 could have fully discharged the second mortgage loan in his 2017 bankruptcy, as the first  
 16 mortgage loan exceeded fair market value when the 2017 bankruptcy was filed, making the  
 17 second mortgage loan fully unsecured and subject to discharge without payment in a Chapter 13  
 18 plan. Plaintiff would have submitted a proper Chapter 13 plan, providing for a no payment  
 19 discharge of the second mortgage loan, had he been made aware of it at the time, and fully paid  
 20 off the Chapter 13 Plan, discharging the second mortgage without payment. Therefore, Plaintiff  
 21 has suffered damages in the full amount (if any) that is actually owed on the second mortgage.

22           (d) In the alternative, Plaintiff made considerable economic payments through the  
 23 2017 Chapter 13 bankruptcy case, in reliance upon no claim being asserted by any purported  
 24 holder of the second position deed of trust. Plaintiff paid \$2,000.00 in an advance payment for  
 25 his attorney fees, \$310.00 payment for the filing fee, and \$53,596.00 in Chapter 13 plan  
 26 payments through the Chapter 13 Bankruptcy Trustee. Of this \$53,596.00 in Chapter 13 plan  
 27 payments, \$1,500.00 went for the balance of Plaintiff's attorney fees, \$4,534.19 for Chapter 13

1 trustee administrative costs, and \$49,061.81 in disbursements to creditors. Of these creditor  
2 disbursements, \$25,544.19 went towards current payments on the first position deed of trust and  
3 another \$5,110.49 towards arrearages on the first position deed of trust. As a result of both the  
4 reduction in the amount owed on the first position deed of trust and appreciation of the value of  
5 Plaintiff's home during the 2017 Chapter 13 bankruptcy (which was dismissed on January 10,  
6 2019), the interests of the first position deed of trust holder in Plaintiff's home were considerably  
7 improved. Moreover, if costs of sale were not considered, there may be some fair market value  
8 in the Plaintiff's home at July 2020 values, that would be applicable to a second position deed of  
9 trust, even though a foreclosure sale (or even regular sale) would net nothing for the second  
10 position whatsoever.

11           125. Under 15 U.S.C. § 1640(a)(3), Plaintiff is entitled to reasonable attorney fees and  
12 costs for having to bring this lawsuit.

## **PRAAYER FOR RELIEF**

WHEREFORE, Plaintiff prays that judgment be entered against Defendant:

1. For injunctive and declaratory relief:
    - a. Quieting title in Plaintiff's real property against Defendant and removing the position deed of trust from any interest against Plaintiff's real property, and
    - b. Declaring the promissory note unenforceable and barring enforcement.
  2. For an award to the Plaintiff of actual damages, and trebling damages up to an amount of \$25,000.00 beyond actual damages, under RCW 19.86.090.
  3. For an award to Plaintiff of actual damages pursuant to 15 U.S.C. § 1692k(a)(1) and statutory damages of \$1,000.00 against Defendant for each violation, pursuant to 15 U.S.C. § 1692k(a)(2)(A).
  4. For an award to Plaintiff of actual damages from Defendant plus additional damages of \$2,000.00 for each violation pursuant to 12 U.S.C. § 2605(f)(1).
  5. Forfeiture of all interest, late fees, and other charges, other than original principal, in accordance with the provisions of RCW 19.16.250, pursuant to RCW 19.16.450.

6. For an award to Plaintiff of actual damages, for each violation of 15 U.S.C. § 1638(f), against Defendant pursuant to 15 U.S.C. § 1640(a).

7. Declaring all payments on the loan due prior to September 7, 2015 (or six years prior to final judgment, whichever is later) barred by the six year statute of limitations.

8. Declaring all interest, late fees, and other charges or fees forfeited, or denied due to laches, waiver and estoppel, which were not timely assessed or not timely billing under the 30 days and/or 45 days requirements of RCW 31.04.290(1)(a).

9. Declaring forfeiture of interest and other charges during any "charge off" periods.

10. For an award of costs of litigation and reasonable attorney's fees pursuant to RCW 19.86.090, 15 U.S.C. § 1692k(a)(3), 12 U.S.C. § 2605(f)(3), 15 U.S.C. § 1640(a)(3), and other applicable laws, against Defendant and for Plaintiff.

11. For such other and further relief as may be just and equitable.

RESPECTFULLY SUBMITTED this 7<sup>th</sup> day of September 2021.

1st Richard L. Pope, Jr.  
RICHARD L. POPE, JR.  
WSBA # 21118  
Attorney for Plaintiff

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Tel: (425) 829-5305  
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1                   **Proof of Service**

2                   I certify that, on September 7, 2021, I electronically filed the foregoing with the Clerk of  
3 the Court using the CM/ECF system which will send notification of such filing to the following  
4 registered with CM/ECF, including the Honorable James L. Robart, and all counsel of record for  
5 the other parties to this case, including the following people listed on the system:

6                   **Joseph W. McIntosh [jmcintosh@mccarthyholthus.com](mailto:jmcintosh@mccarthyholthus.com)**

7                   **Richard Lamar Pope , Jr [rp98007@gmail.com](mailto:rp98007@gmail.com)**

8                   Signed at Bellevue, Washington this 7<sup>th</sup> day of September 2021.

9  
10                   \_\_\_\_\_  
11                   */s/ Richard L. Pope, Jr.* \_\_\_\_\_  
12                   RICHARD L. POPE, JR.  
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